

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

VARKI, Ajit, et al.

Serial No.: 10/565,742

Int. Filing Date: 14 July 2004

For: METHODS FOR DIAGNOSING,
IMAGING AND TREATING
ATHEROSCLEROTIC DISEASE

Customer No.: 27111

Attorney Advisor: SMITH, Anthony

Docket No.: XUCSD-1037153

**RENEWED PETITION UNDER 37 CFR 1.137(a)
AND SUBMISSION OF PETITION UNDER 37 CFR 1.137(b)**

By Telefacsimile to 571-273-0459

Mail Stop Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants received a Notice of Abandonment in the above-captioned case with a mail date of 05/16/2006, indicating that the above-captioned case was allegedly abandoned for failure to timely reply to the Decision on Petition mailed on.....(no date was specified.) No such Decision on Petition was received.

Applicants' attorney called the PCT Office and spoke to Anthony Smith, who indicated that the Notice of Abandonment was sent in error and should be disregarded. Mr. Smith also sent a courtesy copy of the Decision on Petition by facsimile on 31 May 2006 (enclosed herewith.) Applicants wish to thank Mr. Smith for his exemplary helpfulness.

In the Decision on Petition, it was indicated that Applicants should file a Petition under 37 CFR 1.137(b) in response to the Decision. Accordingly, Applicants submit herewith such a Petition. As indicated in the originally filed Petition mailed 26 January 2006 (attached hereto), it was indicated that the failure to timely file the request to enter the U.S. under 35 U.S.C. 371 was due to an unintentional docketing error.

In response to the Decision on Petition indicating that the originally filed Petition lacked sufficient evidence that (1) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, Applicants offer the following further explanation:

Our business routine is to review all cases transferred from other law firms within two weeks of receipt, since under California law, no case can be transferred if there is a docketing due date within 30 days of the transfer. In accordance with this routine, the subject case was reviewed, and entered into our docketing system by our Foreign Paralegal, who had more than five years of experience performing such tasks. The 30 month date was inadvertently entered as 14 January 2007, instead of 14 January 2006. All newly entered docketing dates are triple redundantly docketed: they are inputted into an electronic docketing system, and also in a hard copy calendar and on the Attorney's electronic calendar.

Upon receipt of the Notice of Acceptance of the newly filed Power of Attorney, the file was again inspected and the 30 month date was found to be wrong. The date was corrected in our electronic docketing system by our Docketing Clerk, who had more than 4 years of experience docketing patent cases. He had been trained to communicate changes to dates in the docketing system to both the secretaries and Attorneys (in order for updates to be made to the hard copy calendar and the Attorney's electronic calendar.) Accordingly, he distributed a new docket with the corrected date covering the period from December 1, 2005, to January 31, 2006, to both the secretary and the Attorney. Because of a printer malfunction in printing the docket that was not noticed when the docket was distributed, the new 30 month date of 14 January 2006 was never placed on either the hard copy calendar or the Attorney's electronic calendar. It is believed that the business routine for docketing can be reasonably relied on to avoid errors, and but for the malfunction with the printer, this date would have properly monitored.

In response to the Decision on Petition indicating that the originally filed Petition lacked sufficient evidence that (2) that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care, Applicants offer the following further explanation:

Our Intellectual Property Paralegal had over five years of experience in the field of

intellectual property, and had recently attended an advanced course in PCT practice. As of January 23, 2006, she had been with our firm for over two years and was well versed in our internal policies and procedures with respect to docketing.

Our Docketing Clerk had over four years of experience in the field of intellectual property, and had previous experience with our electronic docketing software. As of January 23, 2006, he had been with our firm for three months, and had undergone over 40 hours of intensive training by both our electronic docketing expert, and by the head of our intellectual property group.

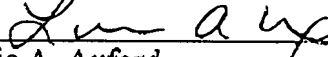
Accordingly, both employees exercised a level of care that could be reasonably relied on for docket maintenance and monitoring.

For the foregoing reasons, Applicants respectfully request that this Renewed Petition be granted.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-1990 referencing XUCSD-1037153 and please credit any excess fees to such deposit account. However, the Commissioner for Patents is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: May 31, 2006

By: 
Laurie A. Axford
Registration No. 35,053

**Please recognize our Customer Number 27111
as our correspondence address.**

GORDON & REES, LLP
101 West Broadway, Suite 1600
San Diego, California 92101-8217
Phone: (619) 696-6700
Facsimile: (619) 696-7121
Attorney Docket No. XUCSD-1037153

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number
(Optional)
XUCSD

First Named Inventor: Varki, Ajit

International (PCT) Application No.: PCT/US04/022415

U.S. Application No.: 10/565,742
(if known)

Filed: 14, July 2004

Title: Methods for Detecting and Analyzing N-Glycolylneuraminic Acid (Neu5Gc) in Biological Materials

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371 (c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371 (c) requirements were due. See 37CFR1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee - Previously paid
- (2) Proper reply - Previously Submitted
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional. Previously Submitted

1. Petition fee☐ Small entity - fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.☐ Other than small entity - fee \$_____ (37 CFR 1.17(m))**2. Proper reply**

A. The proper reply (the missing 35 U.S.C. 371 (c) requirement(s)) in the form of _____ (identify type of reply):

☒ has been filed previously on 23 January 2006.☐ is enclosed herewith.

{Page 1 of 2}

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

American LegalNet, Inc.
www.USCourtForms.com

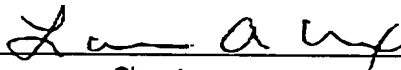
3. Terminal disclaimer with disclaimer fee

- ☐ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

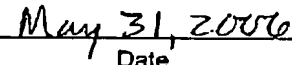
4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature



Date

Laurie A. Axford

Typed or Printed Name

35,053

Registration Number, if applicable

Gordon & Rees LLP

Address

(619) 230-7714

Telephone Number

101 West Broadway, San Diego, CA 92101

Address

- Enclosures: ☐ Response
- ☐ Fee Payment
- ☐ Terminal Disclaimer
- ☒ Other (please identify): Copy of Petition for Revival

Mailed 23 January 2006

-Copy of Decision on Petition Faxed 31 May 2006

08 MAY 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1460
Alexandria, VA 22304-1460
www.uspto.gov

Gordon & Rees, LLP
101 West Broadway, Suite 1600
San Diego, CA 92101

In re Application of
VARKI et al.
U.S. Application No. 10/666,742
PCT No. PCT/US04/22415
Int. Filing Date: 14 July 2004
Priority Date: 15 July 2003
Attorney Docket No. XUCSD.TBA
For: METHODS FOR DETECTING
AND ANALYZING N-
GLYCOLYLN-NEURAMINIC ACID
(NEU5GC) IN BIOLOGICAL
MATERIALS

**DECISION ON PETITION
UNDER 37 CFR 1.137(a)**

This decision is issued in response to applicant's "Petition for Revival of an International for Patent Designating the U.S. Abandoned Unavoidably A under 37 CFR 1.137(a)" filed 28 January 2006.

BACKGROUND

On 14 July 2004, applicant filed international application PCT/US04/22415 which claimed a priority date of 15 July 2003. Pursuant to 37 CFR 1.496, the thirty-month period for paying the basic national fee in the United States expired at midnight on 15 January 2006.

On 28 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee, a copy of the international application, and the present petition under 37 CFR 1.137(a).

DISCUSSION

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied Item (1), (2) and (4).

With regard to Item (3), Section 711.08(c) of the Manual of Patent Examining Procedure states: "A delay resulting from an error (e.g., a docketing error) on the part of an

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employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (A) the error was the cause of the delay at issue; (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care."

Petitioner states that the above-identified application became abandoned as to the United States because of a docketing error. However, petitioner has not provided sufficient evidence that (1) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance and (2) that the employee(s) was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 81 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

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If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." Extensions of time may be obtained under 37 CFR 1.136(a).



Anthony Smith
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 278-0469

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**Docket Number (Optional)
XUCSD.TBA

First named inventor: Varkj, Ajit, et al.

U.S. Application No.: unassigned
(if known)

International (PCT) Application Number: PCT/US04/022415

Filed: 14-Jul-2004 (14.07.2004)

Title: Methods for Detecting and Analyzing N-Glycolylneuraminic Acid (NEU5GC) in
Biological MaterialsAttention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proper reply;
- (3) Terminal disclaimer with disclaimer fee—required for all international applications having an international filing date before June 8, 1995; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee☒ small entity - fee \$ 250.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l))**2. Proper reply**A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form of
U.S. National Phase filing (Identify the type of reply):☐ was previously filed on _____☒ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8.0 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

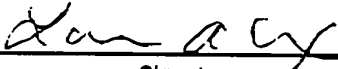
3. Terminal disclaimer with disclaimer fee

- ☒ Since this international application has an international filing date on or after June 8, 1995,
no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity
or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed
herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. 371(c) requirements (or a continuing U.S. application) from their due date until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

 _____ Signature AXFORD, Laurie	23-Jul-06 _____ Date
_____ Typed or Printed Name GORDON & REES LLP	35,053 _____ Registration Number, if applicable
_____ Address 101 West Broadway, Suite 1600 San Diego, California 92101	619.230.7714 _____ Telephone Number
_____ Address	

- Enclosures: ☐ Additional sheets containing statements establishing unavoidable delay
- ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Other (please identify): Return Post Card

Attachment to PTO/SB/61/PCT

Re: PCT/US2004/022415
Methods for Detecting and Analyzing N-Glycolynineuramic Acid (NEU5GC) in
Biological Materials.

This letter is submitted to provide a detailed explanation as to why the 35 U.S.C. 371(c) elements were not timely filed.

The subject case was transferred from my previous law firm of Burns, Doane, Swecker & Mathis LLP on or around October of 2005, indicating a filing date of 14 July, 2004. Thereafter, PCT Revocations and Powers of Attorneys were obtained by the client and filed with the United States Receiving Office on November 17, 2005, granting Power of Attorney to my new firm, Gordon & Rees LLP. We were notified of the acceptance of the Powers of Attorney on December 30, 2005.

When the physical file arrived in October of 2005, it was initially inspected and a temporary record was created which included upcoming due dates. The initial 30 month National Phase Entry Deadline may have been initially entered into the docket system as 14 January 2007, although our electronic docketing system does not allow us to determine this, since the date was thereafter changed. The error was corrected when the file was thoroughly inspected in November when the Powers of Attorney were prepared.

As per our usual business practice, dockets are distributed monthly which span a two-month period, and upcoming deadlines are duly noted. Attached hereto as Exhibit A is our monthly docket dated December 1, 2005 through January 31, 2006. The relevant information appears on the bottom of page 2. The docketing program is set up to keep the entire record for every matter together on the same page. As you can see by the information appearing at the bottom of the left side of the page (i.e., smeared print), it appears that a printing error caused the information that would normally appear on the right side of the page (i.e. the deadline dates and event notes) not to be printed. This was mistakenly interpreted as an indication that nothing was due in this case from December 1, 2005 through January 31, 2006.

Believing that nothing was due between December 1, 2005 and January 31, 2006 for the subject case, nothing was entered in either our hard copy docket calendar (Exhibit B) which is maintained by my secretary, Jose Lopez, or in my outlook calendar (Exhibit C), which is also maintained by Jose Lopez and reviewed by me on a daily basis. These procedures are all part of our triple redundant docket system – a computer based docketing program (ProLaw) for generating monthly dockets, a hard copy calendar for daily review by the secretary, and a calendaring program for daily review by the attorneys/agents.

The next monthly docket for the period between January 4, 2006 and February 28, 2006 had not been reviewed as of January 20th because of vacations and holidays during this

period of time, and because the prior docket ran through January 31st. We had planned to review it on Monday, January 23rd and to enter any upcoming dates through February 28, 2006.

Upon arriving in the office on Monday, January 23rd, I noticed an email from the client in my "inbox" dated late in the afternoon on Friday, January 20th (Exhibit E) after I had already left the office for the day, indicating that we may have missed the 30 month national filing date in the subject application.

As a result, this Petition and accompanying transmittal under 35 USC 371 are now being filed herewith.

GORDON & REES MONTHLY DOCKET

for the following dates:

01-Dec-05 through 31-Jan-06

_____ Kelly	_____ Linda (John/Harris)
_____ Beverly (Neil/Susan)	_____ Jose (Laurel/Lin)
_____ Katherine (patents only)	_____ Alma (Rich)
_____ Laura Sosa (Harris)	_____ Pat (Matt) (scanned/emailed)
_____ Jewell (Rich)	_____

Please INITIAL next to your name, and return to docketing by December 9, 2005.

If you do not initial the docket that you hand in,

I do not know WHO to ask instructions if I have questions.

PLEASE REMEMBER TO GIVE ME DATES WITH YOUR INSTRUCTIONS NEXT TO THE MATTER THAT YOU NEED DOCKETED. (E.G. IF THE APPLICATION IS PUBLISHED, I NEED THE PUBLICATION NUMBER AND THE DATE IT PUBLISHED). PLEASE REMEMBER TO

WRITE LEGIBLY

Should you have docketing updates in the interim, please just forward the updates to me and these will be updated upon receipt

Thank You in Advance for Cooperation.

IP - Monthly Patent Docket for Laurie A. Axford

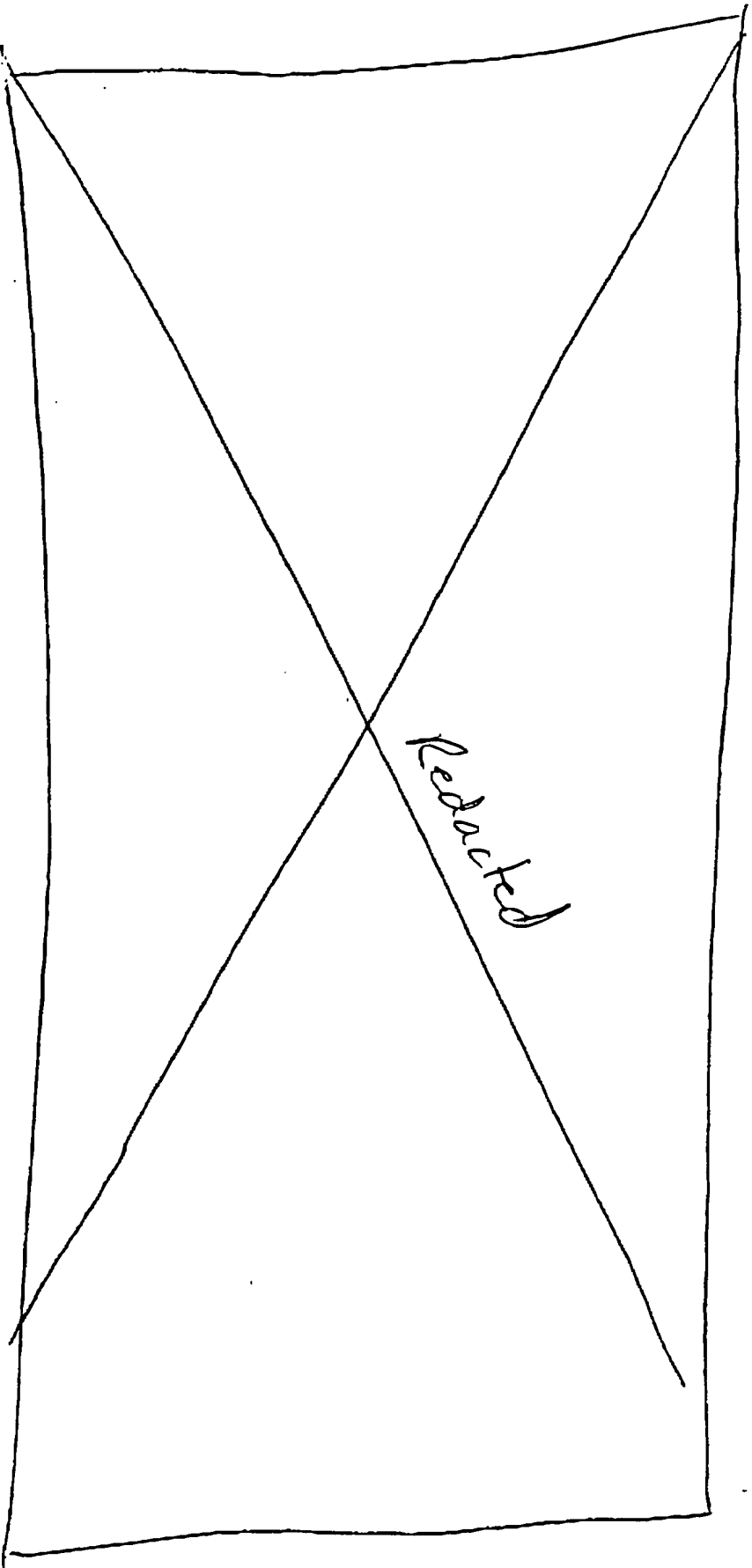
Matter / Owner Info

Additional Matter Info

Event Date

Deadline Date

Event Notes



GERID: XUCSD 1034910
PCNID:
TITLE: Methods for Detecting
and Analyzing
N-Glycolylneuraminic Acid
(NEU5GC) in Biological Materials

12/1/2005 8:45:15 AM

2006

15th day – 350 days follow

Exhibit B

SUNDAY

15

15 JANUARY

January 15, 2006

Sunday

Exhibit C

January 2006

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2006

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4 ⁰⁰	
5 ⁰⁰	
6 ⁰⁰	

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Notes

GORDON & REES MONTHLY DOCKET

for the following dates:

04-Jan-06 through 28-Feb-06

_____ Kelly	_____ Linda (John/Harris/James)
_____ Beverly (Neil/Susan)	_____ Jose (Laurie/Lin)
_____ Katherine (patents only)	_____ Alma (Rich)
_____ Laura Sosa	_____ Pat (Matt) (scanned/mailed)
_____ Jewell (Maha)	_____

Please carefully review the monthly docket for designation errors. Should you have docketing updates, please remember to provide dates with your instructions next to the appropriate matter.

Thank You in Advance for Cooperation.

IP - Monthly Patent Docket for Laurie A. Axford

Matter / Owner Info	Additional Matter Info		Atty	Event Date	Deadline Date	Event Notes
G&R ID: XUCSD 1034910 PCM ID: TITLE: Methods for Detecting and Analyzing N-Glycolylneuraminic Acid (NEUSGC) in Biological Materials OWNER: University of California, San Diego	STATUS: Filed FILING DATE: 7/14/2004 ISSUE DATE: APPL. NO.: PCT/US2004/022415 PAT NO.: COUNTRY: Patent Cooperation Treaty		LAA	1/15/2006		FINAL - National Phase DUE

Repeated

Exhibit E

Laurie Axford

From: Kristine Cole [KMCole@ucsd.edu]
Sent: Friday, January 20, 2006 4:54 PM
To: Laurie Axford
Subject: National Stage 2003-123; Varki ' N-GLYCOLYLNEURAMINIC ACID (Neu5Gc)'
PCT/US04/022415
Importance: High

Dear Laurie,

I fear we missed National Stage due 30 months 1/15. We didn't receive any notice from GR. We want to file in US. What can we do??

Kris

The information contained in this transmission is confidential. This information is intended for the exclusive use of the addressee(s) named above. You are hereby notified that any use, disclosure, dissemination, distribution (other than to the attended addressee (s)), copying, or the taking of any action because of the information contained herein is prohibited.

Kristine Cole
Patent Analyst
UCSD Technology Transfer
9500 Gilman Drive
Mail Code 0910
La Jolla, CA 92093-0910
ph. 858-822-3146
fax 858-534-7345

1/23/2006

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		ATTORNEY'S DOCKET NUMBER XUCSD.TBA
INTERNATIONAL APPLICATION NO. PCT/US04/22415		U.S. APPLICATION NO. (if known, see 37 CFR 1.5) unassigned
INTERNATIONAL FILING DATE 14-July-04		PRIORITY DATE CLAIMED 15-July-03
TITLE OF INVENTION Methods for Detecting and Analyzing N-Glycolylneuraminic Acid (NEU5GC) in Biological Materials		
APPLICANT(S) FOR DO/EO/US The Regents of the University of California		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. 3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below. 4. <input type="checkbox"/> The US has been elected (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2)) <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input checked="" type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input checked="" type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)). 		
Items 11 to 20 below concern document(s) or information included:		
<ol style="list-style-type: none"> 11. <input type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 13. <input type="checkbox"/> A preliminary amendment. 14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76. 15. <input type="checkbox"/> A substitute specification. 16. <input type="checkbox"/> A power of attorney and/or change of address letter. 17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825. 18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4). 19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4). 		

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

USPTO 41504376V

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U.S. APPLICATION NO. (If known, see 37 CFR 1.5) unassigned		INTERNATIONAL APPLICATION NO. PCT/US04/022415		ATTORNEY'S DOCKET NUMBER XUCSD.TBA	
20. Other items or information: Return post card; Petition of Revival of an International Application for Patent Designating the U.S. Abandoned Unavoidably under 37 CFR 1.137(a); and International Search Report and Written Opinion					
The following fees have been submitted				CALCULATIONS	PTO USE ONLY
21. <input checked="" type="checkbox"/> Basic national fee (37 CFR 1.492(a))..... \$300				\$ 300.00	
22. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c))					
If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0				\$ 0.0	
All other situations.....\$200					
23. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b))					
If the written opinion of the ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0				0.0	
Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority.....\$100				\$	
International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB..... \$400					
All other situations.....\$500					
TOTAL OF 21, 22 and 23 =				300.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole number)	RATE		
- 100 =	/50 =		x \$250	\$	
Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$	
Total claims	21 - 20 =	1	x \$ 50	\$ 50.00	
Independent claims	4 - 3 =	1	x \$200	\$ 200.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$350	\$	
TOTAL OF ABOVE CALCULATIONS =				\$ 250.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by 1/2.					
SUBTOTAL =				\$ 225.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(l)).				\$	
TOTAL NATIONAL FEE =				\$ 300.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$	
TOTAL FEES ENCLOSED =				\$ 525.00	
				Amount to be refunded:	\$
				Amount to be charged	\$ 525.00

- a. ☐ A check in the amount of \$ _____ to cover the above fees is enclosed.
- b. ☒ Please charge my Deposit Account No. 50-1990 in the amount of \$ 525.00 to cover the above fees.
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1990. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

Gordon & Rees LLP
101 West Broadway, Suite 1600
San Diego, California 92101
Telephone: 619.696.6700
Facsimile: 619.696.7124



SIGNATURE
AXFORD, Laurie

NAME
35,053

REGISTRATION NUMBER

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

AXFORD, Laurie

23-Jan-06

Date

35,053

Typed or Printed Name

Registration Number, if applicable

(In the space provided below, please explain in detail why the 35 U.S.C. 371(c) elements (or continuing U.S. application) were not timely filed.)

SEE ATTACHED EXPLANATION (9 pages)

FACSIMILE TRANSMISSION

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Anthony Smith Attorney Advisor	Office of PCT Legal Administrator	571-273-0459	

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